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ID vLex: 802893321
http://ie.vlex.com/vid/moore-and-others-v-802893321

Moore and Others v Attorney General

Jurisdiction: Ireland

Court: Supreme Court (Irish Free State)

Judgment Date: 27 June 1927

Reported In: [1927] IR 569 , [1927] IR 569 (Digest)

Date: 27 June 1927

Docket Number: (1927. No. 228.)

Case History: Reverses Moore and Others v Attorney General

Supreme Court.

(1927. No. 228.)

Moore and Others v. Attorney-General
ROBERT LYON MOORE and Others
and
THE ATTORNEY-GENERAL FOR SAORSTÁT saorstátÉIREANN éireann[1]

Practice - Interlocutory injunction - Several fishery in tidal waters - Disputed claim - Prima facie evidence of title - Magna Charta - Effect of Landed Estates Court conveyance - Irreparable damage - Appeal from discretionary order - Delay - Supreme Court of Judicature Act (Ir.),1877 (40 & 41 Vict. c. 57), sect. 28, sub-sect. 8.

Appeal by the plaintiffs from an order of Johnston J., dated 26th May, 1927, refusing their application for an interlocutory injunction. The plaintiffs sought to restrain the defendants by interlocutory injunction from trespassing upon their several fishery in the tidal portion of the River Erne, in the County of Donegal, between the Falls of Assaroe at Ballyshannon and the high sea or Bar of Ballyshannon, or fishing therein or taking fish thereout, and from obstructing the plaintiffs, their servants, licensees, or agents in the exclusive use and enjoyment of the said fishery.

Prior to the institution of the present action, the plaintiffs had issued summonses against the defendants for having entered into and upon the fishery for the purpose of taking or killing fish, contrary to 11 & 12 Vict. c. 92, sect. 41; but the District

Justice had held that he had no jurisdiction, as a question of title was involved. One of the plaintiffs had then applied for, and obtained, a conditional order for a writ of *mandamus* directed to the District Justice to hear and determine the summons, and the High Court had made the conditional order absolute; but, on appeal, the Supreme Court (Kennedy C.J. and Murnaghan J., FitzGibbon J. dissenting) had reversed that decision and discharged the conditional order. The case is reported *ante*, p. 406.

The further facts material to the present report are stated in the judgment of the Chief Justice.

Plaintiffs brought an action claiming a declaration that they were entitled to, and possessed of, a several fishery in the tidal waters of a certain river, and to the bed and soil underlying the said waters, and that such several fishery was a valid private interest preserved by the Constitution of the Irish Free State, and also claiming a perpetual injunction restraining the defendants and all other persons from trespassing upon the said fishery or fishing therein, and from obstructing the plaintiffs, their servants, or agents in the exclusives use or enjoyment of the said fishery. Prior to the institution of proceedings some of the defendants, for the purpose of challenging the plaintiffs' title, had proceeded to fish in the river with boats and nets, and subsequently they had taken large quantities of fish. The plaintiffs having applied for an interlocutory injunction pending the hearing of the action:

Held by the Supreme Court, reversing Johnston J., that all interlocutory injunction ought to be granted, as there had been no delay on the part of the plaintiffs in bringing the action, having regard to the importance of the issues raised, which included the determination of the question whether a several fishery in the river existed at the date of Magna Charta, and the validity of a patent of James I, and of its confirmation by Charles I; and also upon the grounds (*per* Kennedy C.J. and FitzGibbon J.) that there was a danger of destruction of, or permanent and

irreparable injury to, the fishery; and (*per* FitzGibbon J. and Murnaghan J.) that the plaintiffs had enjoyed the right claimed for a long period of time, and the balance of justice and convenience was in favour of granting the injunction.

Cur. adv. vult.

Kennedy C.J. :—

This is an appeal from an order of Mr. Justice Johnston made on the 26th May, refusing the plaintiffs' application for an injunction pending the hearing of the action to restrain the defendants (other than the Attorney-General) from fishing in the tidal portion of the River Erne, in the County of Donegal.

The action was commenced by plenary originating summons issued on the 13th May, in the present year, wherein the plaintiffs claim a declaration that they are entitled to and possessed of a several fishery in the entire tidal portion of the River Erne, in the County of Donegal, from the Falls of Assaroe at Ballyshannon to the high sea or Bar of Ballyshannon, and to the bed and soil underlying the said waters, and that such several fishery is a valid private interest preserved by the Constitution of the Saorstát; and they claim an order quieting them in the

exclusive possession of such several fishery. The summons also claims a perpetual injunction "restraining the defendants and all other persons from trespassing upon the said fishery, fishing therein, or taking fish thereout; and from obstructing the plaintiffs, their servants, licensees, or agents, or any person or persons authorised by the plaintiffs, in the exclusive use or enjoyment of the said, fishery." It is stated in the endorsement that the Attorney-General for Saorstát Éireann éireann is sued as representing the public and the State of Saorstát Éireann éireann.

On the 16th May the plaintiffs served their notice of motion for an injunction pending the hearing of the action. The injunction asked for was substantially in the terms of the perpetual injunction claimed in the plenary summons, but it was asked only as against the forty-three named defendants, and not against the Attorney-General.

No pleadings have as yet been delivered on either side, and the motion, which was adjourned on the application of the Attorney-General, from the 16th to the 26th May, was dealt with on the affidavits filed, and was refused.

In the month of June, 1925, some of the present defendants, for the purpose of challenging the title of the plaintiffs to a several fishery in the tidal waters in question, having given formal notice of their intention, entered upon the waters with a boat and nets. They were summoned

by the plaintiffs before the District Court, hut the District Justice held that his jurisdiction was ousted, there being a question of title involved. The plaintiffs then applied for and obtained from the High Court an order of mandamus requiring the District Justice to hear and determine the matter of the summonses. The defendants appealed to this Court, and, on the 28th February of the present year, the judgment of this Court was delivered allowing the appeal, and discharging the order of mandamus granted by the High Court [(1)].

No move was made by either party from the date of the judgment in this Court until the 11th May. It appears by the affidavits filed in support of the application for an injunction that on the 11th, 12th, and 13th, days of May all the defendants entered on the disputed waters with boats and nets and proceeded to fish, and captured and took considerable quantities of salmon. The plaintiffs immediately issued their plenary originating summons, and followed it up with the notice of motion for an injunction pending the trial.

One of the grounds upon which the learned Judge refused the injunction appears to have been delay on the part of the plaintiffs in commencing the action, referring to the period from the 28th February, when the judgment of this Court was delivered, to the 13th May, when the plenary originating summons was issued. It is, however, to be remembered that the

defendants most properly abstained from entering upon the waters to fish during the whole time that the previous case was*sub judice*, and that they never interfered with the fishery from the month of June, 1925, until the 11th May, 1927, two days before the issue of the plenary summons. Even if the plaintiffs were not, as stated here, waiting for the defendants to enter again upon the waters for the purpose of fishing, before issuing the summons, the plaintiffs would necessarily have consumed a certain amount of time, first, in taking out copies of our judgments and then in studying them, if they were not to launch their proceedings in a state of unpreparedness to deal with the difficult and important issues raised. Moreover, during the interval until the 11th May, there was no active assertion of right against the plaintiffs, and therefore nothing in the nature of an acquiescence by them in an adverse claim. It would, in my opinion, be quite wrong to hold that, if the plaintiffs are otherwise entitled to an interlocutory injunction, they have forfeited that right by reason of delay in such circumstances of time and facts as existed in the present case.

Two main objections have been argued on behalf of the defendants against the granting of an injunction, namely, first, that the plaintiffs have not shown *primâ facie* evidence of title to a several fishery as claimed in the action, and secondly, that the acts alleged against the defendants in the affidavits upon which the application is grounded do not constitute irreparable damage which ought to be restrained by injunction.

Upon the first of these matters, the position is this. It is common case that the waters in dispute are tidal waters, that is to say waters which *primâ facie* belong to the public with the right of fishing therein. The defendants have fished in these waters, in the manner complained of, in assertion of such public right, against a private monopoly which they contend does not, and could not, exist in these waters.

In the mandamus proceedings the plaintiffs relied upon a conveyance from the Landed Estates Court made in the year 1869 as conclusively establishing their title to the several fishery claimed in the present action. This Court held (Mr. Justice FitzGibbon dissenting) that what the Court conveyed by that deed was, such right of fishing as was comprised in the estate of one, Thomas Connolly, then being sold by the Court, and that it was necessary to go behind the conveyance to ascertain the nature and extent of the fishery rights in the disputed waters which the conveyance was effective to pass to the plaintiffs or their predecessors in title. One of the plaintiffs, Major Robert Lyon Moore, has dealt with the title prior to the Landed Estates Court Conveyance, as follows in his two affidavits upon the motion. In his first affidavit grounding the motion he says:—

> "The prior title to the said fishery consists of Patents from King James 1st to the predecessors in title of the plaintiffs, namely, Henry Ffolliott Knight, Lord Ffolliott, Baron of Ballyshannon, and his heirs, and confirmations of the same by King Charles 1st, and mesne assignments of said property, which ultimately became vested in Thomas Connolly, whose estate was sold in the Landed Estates Court."

> "The plaintiffs and their predecessors in title have been in exclusive and undisturbed possession and enjoyment of the said fishery since the date of the said Patent of King James I until the month of June, 1925."

These averments, which are clearly outside the limits of Major Moore's personal knowledge, should not have been made in that form. We may, however, fairly take them to mean that Major Moore and his co-plaintiffs undertake to prove these matters at the trial of the action.

The second affidavit of Major Moore contains the following paragraph:—

"I refer to a certified copy of an Inquisition taken at Lifford, County Donegal, No. 3 of James I, whereby it was found that there was a Royal Salmon Fishing in the sea below Ballyshannon called the Salmon Leap of Ballyshannon within the said county, where it doth ebb and flow and is navigable with ships, barks, lighters and boats, and that the same is in possession of the said Henry Lord Ffolliott, etc. I also refer to a certified copy of a grant of the 20th James I to Henry Ffolliott, Baron of Ballyshannon, and a translation thereof, from which it appears that the entire creek, bay, or river of Ballyshannon from the high sea as far as the bank or fall of water, commonly called the Salmon Leap, otherwise the Fall of Asheroe . . . . and also the soil, ground, and water of the aforesaid creek, bay, lake, or river" (1).

The defendants, relying on Magna Carta, say that the Stuart Kings could not validly create an exclusive several fishery in tidal waters, which they say were not "in defence"at the time mentioned in the Great Charter, and, relying on the affidavit of Mr. De Largy, they say that no

private right of several fishery existed in these waters which could have been acquired by confiscation or otherwise by the Stuart Kings and passed by their grants. Moreover, it is pointed out that the"Royal Salmon Fishing" mentioned in the Inquisition may have been a limited right or privilege, as in the case of the Abbey of Asseroe, and not necessarily to the entire exclusion of the public.

That is the way the matter stands on the affidavits and the arguments, and we are asked by the plaintiffs to say that they have established a *primâ facie* title, and by the defendants to say that it is now clear that the plaintiffs never can establish any title to the several fishery claimed.

It is, in my opinion, impossible, as it would be, in my judgment, wrong, to accept and affirm either contention at this stage of the proceedings, nor is it, in my view, necessary to do so for the purposes of the present application. Both depend partly on matters of fact and partly on matters of law. The proposition as to showing *primâ facie* title is, in my opinion, pressed too far by the counsel for the defendants. What is required, before entertaining an application on the plaintiff's part for an interlocutory injunction, is that the Court shall be satisfied that the plaintiff is prosecuting a *bonâ fide* claim which does not state itself out of Court, that the action is a real action with a real issue to be tried, and the Court must be careful not to prejudge the issue or anticipate the findings on any of the matters of fact, some of which may fall to be determined by a jury. I am satisfied that there are substantial and difficult questions to be determined in this action, and that that is sufficient to support an interlocutory injunction if the circumstances warrant an injunction being granted.

I come now to the more troublesome question of damage. The notice of motion, as I have said, prays for an injunction in the terms of the perpetual injunction sought in the endorsement on the plenary summons. If, however, there were merely a question of alleged trespass, I should have no hesitation in refusing the plaintiffs' application. The case made is, however, one of irreparable damage to the subject-matter of the action, and it becomes a question whether the Court should under its wide powers intervene to protect and preserve the property pending trial.

The evidence is that the plaintiffs, who have for a number of years exclusively enjoyed this fishery, fished it with two or three boats only, and raised large quantities of salmon, which yielded them a large profit during each annual fishing season. On the 11th May and subsequent days a fleet of fourteen or more boats (including nine belonging to the defendants) entered the waters with nets, and, it is alleged, captured large quantities of salmon. The plaintiffs allege that the defendants are all men of no means from whom damages could not be recovered, and they further allege that the defendants are doing serious injury to the fishery. The injunction is asked for on the ground that the operations of the defendants are causing irreparable injury to the fishery. The damage was said to be irreparable in the first place because damages could not be recovered from the defendants, owing to their poverty. In my opinion, however, that is not

the meaning of "irreparable injury" in the sense in which it is used in relation to interlocutory injunctions. The damage which will be restrained is injury for which adequate compensation cannot be made by means of pecuniary damages, such as the destruction of the subject-matter of the dispute. I think, therefore, the real question of substance on this application is whether the acts alleged against the defendants are destructive of, or likely to cause permanent injury to, the fishery.

Now the named defendants are sued in respect of acts done by them as members of the public in assertion of public rights. The Attorney-General is sued as representing the public. If the named defendants are in fact doing irreparable damage to the fishery, then if the plaintiffs fail in the action, it is the public who will have suffered the irreparable injury. I accordingly looked for assistance on this matter to the counsel for the Attorney-General, who had given us much help on the legal questions. One might have expected that we should have the benefit of an affidavit from some inspector of the Department of Fisheries or some other independent expert, which would have been a great help in coming to a conclusion on this matter of specialised knowledge upon which we have at present not wholly satisfactory affidavits from the actively adverse parties. The Attorney-General, however, appears to wish to hold a somewhat detached and neutral position, at least on this matter. Mr. Bewley did, however, say that he did not question the correctness of the statements contained in Major Moore's affidavits. I find the following averments in Major Moore's second affidavit:—"The defendants are at present catching cartloads of salmon every day and selling same."

> "The defendants and others are at present fishing fourteen boats and nets, and there is every prospect of other boats coming in to fish. The plaintiffs fish only two or three boats, and besides same have a large salmon hatchery on the river, and I am satisfied that if this wholesale destruction of fish is carried on the salmon will become gradually less, and it will cease to be a good salmon river altogether."

If the plaintiffs, who worked this fishery as a business to produce the maximum profit for the owners, fished it with two or three boats only, the conclusion seems irresistible that a fleet, at present of fourteen boats, but to which there may at any time be no limit but the surface area of the water, must have a destructive effect on the fishery. Mr. Bewley tells us, as indeed we should assume, that if the public right in this fishery should be established as a result of the action, the exercise of the public right will be regulated by bye-laws directed to the preservation of the fishery under statutory authority.

A matter which influenced the decision of Mr. Justice Johnston was the statement in one of the affidavits that the fishing in this river lasts only from the 2nd May until about the 10th July. The learned Judge therefore viewed the application as relating only to a short remainder of the season. Mr. MacLoone, however, admitted here that the river is legally open until the middle of August, and he claimed freedom for his clients to fish until that time. It appears that the plaintiffs do not find it profitable to fish after the middle of July, because the supply of fish then decreases very considerably.

Mr. Justice Johnston urged that the action should be brought to a very speedy hearing, and generously offered his own assistance to that end, in the hope that the case might be disposed of before the Long Vacation. I know what an indefatigable worker the learned Judge is, and I realise the effort he proposed to make at this, the busiest time of the year. But I feel very strongly that this is a case which cannot be rushed. From my study of it, I am certain that the plaintiffs Will require adequate time to get together the materials upon which they will have to support their claim. I am equally certain that the defendants will require to expend some time and trouble in preparing their defences. I feel that it would be almost a denial of justice to press on the case unduly, though all parties should certainly be ready for trial immediately after the Long Vacation.

On the evidence before us I have come to the conclusion that there is a real danger of destruction of, or permanent and irreparable injury to, this fishery if the Court should not intervene for its preservation pending the trial of the action, and, in my opinion, an interlocutory injunction should be granted on these terms, viz.:—The defendants to be restrained from fishing in the disputed waters; the plaintiffs to carry on the fishery under the authority of the Court as receivers, and to keep an account of all fish taken in these waters and the moneys realised by sale thereof, and to account to the Court if and when required; the plaintiffs to undertake to speed the trial of the action to a hearing early in the next Michaelmas Sittings, and to undertake to abide any order as to damages by reason of this injunction. Costs here and below to be dealt with in the action.

FitzGibbon J. :—

It has been contended that as the grant or refusal of an interlocutory injunction is a matter of discretion, this Court ought not to interfere with the order which the learned Judge in the Court below thought fit to make.

I shall not attempt to restate the various grounds upon which discretionary orders have been or may be reviewed upon appeal, but it suffices for the purpose of the present case to say that, in my opinion, the learned Judge, in refusing the order applied for, mainly, as I read his judgment, upon the ground that the plaintiffs had been guilty of unreasonable delay in bringing this action, misapprehended the question to be tried and the magnitude of the issues involved.

Up to at earliest the 28th of February, 1927, in the present year, the plaintiffs had in their favour a decision of our own High Court that their title, founded upon a Landed Estates Court Conveyance of 1869, was so clear that no *bonâ fide* question of title could be raised against it. On that date this Court, by a decision which is absolutely binding upon every Court in this

country, held that there was a question of title involved sufficient to oust the jurisdiction of a District Justice, viz., whether the fishery admittedly granted by the Landed Estates Court conveyance was or was not an exclusive right of fishing.

From one point of view that might have been regarded as a mere question of construction of the conveyance itself, and if that had been the true view, the learned Judge was quite right in thinking that the issue might have been brought on for trial without any delay.

But there was another view which involved very much wider and more important questions, and it is evident that these, or some of them, are the questions which will be debated in this action. The validity of a Patent of James I, of its confirmation by Charles I, of an Inquisition which was the foundation of the former, and the possibility of the existence of a several fishery in the *locus in quo* in pre-Norman days, are all challenged by the defendants, and it seems to me wholly unreasonable to suggest that the plaintiffs, who must be prepared to deal with such issues, could in the brief period between February 28th last and May 13th have collected the material to enable them to take proper advice as to their rights and launch a proprietary suit. Legal proceedings were forced upon them by the defendants, who on May 11th and 12th, 1927, invaded the property to which the plaintiffs claimed to be entitled, and on the next day a plenary summons was issued, and the plaintiffs applied at the earliest possible moment for an injunction to preserve the property *in statu quo* pending the trial of the action. Except upon the view that only a question of the legal construction of a deed was involved, I am unable to understand how the learned Judge could have come to the conclusion that a trial of the issues involved could have been had during the present sittings; and, if the plaintiffs' hands had not been forced, I should have expected them to take a much longer time for preparation before instituting proceedings in what appears to be a case which may turn out to be as difficult and important as *Malcomson v. O'Dea*[(1)] or *Devonshire v.Neill*[(2)]. The learned Judge also appears to have been under a misapprehension as to the duration of the fishing season in the estuary of the Erne. It is quite true that the plaintiffs have usually ceased fishing in the first half of July, but the learned Judge was not informed that the defendants, whom he was asked to restrain, would have been entitled to continue fishing until the latter half of August, so that he had no true ground for estimating the possible damage which might have been caused to the fishery, if what has been described in an affidavit as the "wholesale destruction of fish" were permitted

to continue unchecked for nearly three months from the date on which the application was made to him.

Upon these grounds I am of opinion that this Court is quite free to consider this application as if it were made here for the first time, and must exercise its own discretion upon the facts.

In arriving at a decision whether an interlocutory injunction to restrain a party from exercising an alleged right ought to be granted, pending the hearing of an action in which the existence of that right is involved, we are bound to have regard to the interest of all parties to the suit, and all the circumstances of the case, and to grant the injunction if it is just and convenient so to do. The property in the present case belongs either to the plaintiffs or the public, and it has been sworn, and not contradicted, that if the methods of fishing adopted by the defendants are carried on, the river will cease to be a good salmon river altogether.

Counsel for the Attorney-General, who is here to represent the interests of the public, has not, been instructed to dispute the accuracy of this averment, and has said that he is "not prepared to deny that the combined effect of both parties fishing may be injurious." It appears from uncontradicted evidence that the plaintiffs, while exercising for their own profit and in their own interest rights which they believed to be exclusively their own, fished this estuary with two or three boats from about the middle of May till about the 10th of July, and that, there are now, in addition to the plaintiffs' boats, fourteen other boats fishing the pools and channels, especially at low water. In former years the plaintiffs used, with their two or three boats, to take about a ton a day of fish in addition to what were taken in the boxes; but it has been sworn, and not contradicted, that the defendants "are at present catching cartloads of salmon every day," and as we have uncontradicted evidence that there were eighteen salmon in one boat before it had finished its day's work, it is reasonable to infer that there is a very considerable drain upon the supplies of fish going up to the non-tidal waters of the Erne, and the injurious effect of this has been sworn to by the plaintiff, Moore.

If the plaintiffs should ultimately succeed, their property, if we believe the evidence, will have been seriously injured and they will have no redress, while the defendants, if they be found entitled as members of the public, will only be delayed for a few weeks in the enjoyment of a right, the very existence of which never appears to have occurred to anyone for the past three centuries until June, 1925, and was then denied by a judgment of the High Court until February, 1927, and has not yet been legally established.

The whole balance of justice and convenience appears to me to incline overwhelmingly in favour of granting the injunction asked.

I desire to say nothing which can affect the decisions of the questions of title which must be tried in this action, except this, that if it appeared upon the hearing of this application that the plaintiffs' title was, as the defendants suggest, manifestly unsustainable, I should, I think, be bound to refuse the injunction. The party who seeks to exclude another from exercising an alleged right must at least show a *primâ facie*title in himself. This, in my opinion, the present plaintiffs have done, and I am not yet prepared to hold that even uninterrupted and

unchallenged enjoyment for so long a period would not justify the Court in granting an interlocutory injunction pending the trial of an action to establish title against an invasion which threatened the very existence of the subject-matter.

Murnaghan J. :—

I am of opinion that the plaintiffs are entitled to an interlocutory injunction pending the trial of the action. The plaintiffs claim to be entitled to a several fishery in tidal waters, and, so far as appears in evidence, they have been in exclusive enjoyment of this several fishery for over thirty-five years. No doubt, the right claimed by the plaintiffs is one which it is difficult to establish, as the origin of the several fishery must be shown to have dated as far back as the passing of the Great Charter. It has been suggested that it will be impossible to establish the right claimed by the plaintiffs, because English law did not have any application in Donegal at this early date. The plaintiffs have, however, produced an inquisition in the reign of King James I and a royal grant from that monarch; and, so far as at present appears, the several fishery has been in the possession of the plaintiffs and their predecessors in title since that time. I am satisfied on the evidence that the defendants are doing substantial injury to the plaintiffs by fishing in the tidal waters, and interfering with the plaintiffs' several fishery, if it shall ultimately be determined that the plaintiffs have the right which they claim. I am not, however, satisfied on the evidence before us that the fishing by the defendants is injurious to the several fishery in tidal waters in the sense that the fishery will be deteriorated. There is no claim in the action for injury to a private fishery in non-tidal waters, and I am not satisfied that any such injury is clearly proved. The question of law arises upon this view of the facts, whether the plaintiff is entitled to an interlocutory injunction. Under the Judicature Act, 1877, sect. 28, sub-sect. 8, an injunction may be granted by an interlocutory order in all cases in which it shall appear to the Court to be just or convenient that such order should be made. This specific legislation extends the principles upon which jurisdiction was formerly exercised by the Court of Chancery, although no doubt these principles may still be a guide in many cases. I am of opinion that, having regard to the length of time during which the right in question has been enjoyed by the plaintiffs, and without expressing any opinion as to whether the plaintiffs will ultimately establish the right claimed, it is just and convenient that the defendants should be restrained from fishing until the action can be tried.

It is not, in my opinion, merely a question whether the plaintiffs, if they establish their title, can recover damages from the defendants. Where, as here, a right which is possible in law has been enjoyed for such a length of time, it is more just and also more convenient that the *status quo* shall be maintained. The plaintiffs must, however, undertake to keep an account of all profits, so that the Court will be in a position to deal with the profits as justice may require. As we are interfering with the exercise of the discretion of the Judge of the High Court, I should say that I do not see how the trial of the action could possibly take place during the present sittings.

Neither the plaintiffs nor the defendants could be expected to be ready with the necessary proofs on a matter of such importance in that time. I am also of opinion that the plaintiffs were guilty of no delay, and I do not see how they could have moved more promptly than they did.

(1) Before Kennedy C.J., FitzGibbon and Murnaghan JJ.

(1) 5 Ir. J. (N. S.) 185.

(2) 7 L. R. Ir. 191.

(3) 5 Ir Ch. R. 229.

(4) 10 H. L. C. 593.

(5) 3 Ch. App. 337.

(6) 27 Ch. D. 497.

(7) [1911] 1 K. B. 455.

(8) 13 L. R. Ir. 97.

(9) L. R. 8 A. C. 135.

(1) *Ante*, p. 406.

(2) [1914] A. C. 153.

(3) [1902] 1 Ch. 557.

(4) 16 M. & W. 569, at p. 573.

(5) 3 De G. M. & G. 304.

(1) [Since reported, ante, p. 406.—Rep.]

(1) So in original affidavit.

(1) 10 H. L. C. 593.

(2) L. R. 8 A. C. 135.